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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,225	03/31/2004	Ralph E. Wesinger JR.	GRAPH-005COH	7329

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SIERRA PATENT GROUP, LTD.
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EXAMINER

AHN, SANGWOO

ART UNIT	PAPER NUMBER
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2166

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/816,225

Applicant(s)

WESINGER ET AL.

Examiner

Sangwoo Ahn

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's communication filed on 2/9/2007 has been entered.

Claims 26 – 43 are pending in this Office Action.

Claims 26, 28, 32 34, 38 and 40 have been amended.

Response to Arguments

Applicant's arguments with respect to claim 26, 32 and 38 have been considered but are moot in view of the new ground(s) of rejection.

Terminal Disclaimer

The terminal disclaimer filed on 2/9/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the patent that will issue from co-pending patent application No. 10/825,973 and the patent that will issue from co-pending patent application No. 10/825,969 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32 – 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

They are, at best, functional descriptive material *per se*. For an apparatus to be a physical object, at least one recited element must be hardware. If all elements would have been reasonably interpreted in light of the disclosure by one of ordinary skill as

Art Unit: 2166

software alone, the claim is directed to software *per se* and is non-statutory. When functional descriptive material is recorded on some computer-readable medium and executed by a processor, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,732,219 issued to Thomas P. Blumer et al (hereinafter “Blumer”) in view of U.S. Patent Number 5,870,552 issued to Linda T. Dozier et al (hereinafter “Dozier”).

Regarding claim 26, Blumer discloses,

A method for creating entries in an on-line database in a user-defined category comprising:

receiving a request from a user to create an entry in an on-line database (Figure 4 element 122, column 14 lines 55 – 57, et seq.);

creating an entry in the on-line database (Figure 4 element 140, et seq.).

Blumer does not explicitly disclose receiving a category defined by said user to said entry and one or more keywords associated with said category, associating said

Art Unit: 2166

entry with said category, and wherein said user interacts with said on-line database over a public network using a standard web browser without the need for any additional user software.

However, Dozier discloses receiving a category defined by said user to said entry and one or more keywords associated with said category, associating said entry with said category (Figure 10b, column 15 lines 50 – 57, et seq.), and wherein said user interacts with said on-line database over a public network using a standard web browser without the need for any additional user software (Figure 10b, column 1 line 57, column 2 line 50, column 3 lines 60 – 61, column 6 lines 7 – 10: Given the broadest reasonable interpretation, a web browser is merely a software that allows a user to access and view HTML documents (and resources available through World Wide Web), et seq.). At the time of the present invention, it would have been obvious to a person of ordinary skill in the data processing art to combine the two references because Dozier's user-defined category would have enabled Blumer's overall system to support user-defined classification/categorization of documents and content available to users in an intelligently organized fashion that facilitate uniform, content-driven search and access.

Regarding claim 27, Dozier discloses that said entry includes non-textual content (Figure 7, et seq.).

Regarding claim 28, Dozier discloses that said non-textual content comprises graphics (Figure 7, et seq.).

Art Unit: 2166

Regarding claim 29, Dozier discloses the act of allowing said user to index said entry in said on-line database with at least one user-defined keyword (Figure 10b, column 15 lines 50 – 57, column 16 lines 42 – 44, et seq.).

Regarding claim 30, Dozier discloses the act of allowing said user to add a URL to said entry in said on-line database (Figures 8a – 8b, et seq.):

Regarding claim 31, Dozier discloses the act of allowing said user to add a hyperlink to said entry in said on-line database (Figures 8a – 8b, column 14 line 25 – 27, et seq.).

Claims 32 – 37 are essentially the same as claims 21 – 26 except they set forth the limitations as “an apparatus” rather than “a method”, therefore rejected based on the same rationale discussed in claims 21 – 26 rejections.

Claims 38 – 43 are essentially the same as claims 21 – 26 except they set forth the limitations as “a web server” rather than “a method”, therefore rejected based on the same rationale discussed in claims 21 – 26 rejections.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2166

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sangwoo Ahn whose telephone number is (571) 272-5626. The examiner can normally be reached on M-F 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/5/07 SW



**MOHAMMAD ALI
PRIMARY EXAMINER**

Patent Examiner Sangwoo Ahn
AU 2166